

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

EDWIN HERRERA,

Plaintiff,

v.

LT. WALTERS, C/O STOUT and NURSE
HARDY, ,

Defendants.

Case No. 11-cv-810-JPG

MEMORANDUM AND ORDER

This matter comes before the Court on the Report and Recommendation (“Report”) (Doc. 32) of Magistrate Judge Philip M. Frazier recommending that the Court grant the motion for summary judgment filed by defendants Andy Stout and Shane Walters (Doc. 24) and dismiss Count 1, a claim for excessive force, without prejudice for failure to exhaust administrative remedies.

The Court may accept, reject or modify, in whole or in part, the findings or recommendations of the magistrate judge in a report and recommendation. Fed. R. Civ. P. 72(b)(3). The Court must review *de novo* the portions of the report to which objections are made. *Id.* “If no objection or only partial objection is made, the district court judge reviews those unobjected portions for clear error.” *Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 739 (7th Cir. 1999).

The Court has received no objection to the Report. The Court has reviewed the entire file and finds that the Report is not clearly erroneous. Accordingly, the Court hereby:

- **ADOPTS** the Report in its entirety (Doc. 32);
- **GRANTS** the motion for summary judgment filed by defendants Andy Stout and Shane Walters (Doc. 24);

- **DISMISSES** Count 1, a claim for excessive force, without prejudice for failure to exhaust administrative remedies; and
- **DIRECTS** the Clerk of Court to enter judgment accordingly.

IT IS SO ORDERED.

DATED: April 22, 2013

s/J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE